

EXHIBIT 2

REDACTED

Page 1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x
5 JOHN DOE NO. 1; JOHN DOE NO. 2;
6 and NEW YORK STATE RIFLE AND
7 PISTOL ASSOCIATION, INC.,

8 Plaintiffs,

9 16-CV-8191

10 - against -

11 PUTNAM COUNTY; and MICHAEL C.
12 BARTOLOOTI, in his official
13 capacity as County Clerk for
14 Putnam County,

15 DEFENDANT,

16 STATE OF NEW YORK ATTORNEY GENERAL,

17 Intervenor.

18 -----x
19 9:45 a.m.

20 June 4, 2019

21 245 Main Street

22 White Plains, New York

23 * CONFIDENTIAL INFORMATION *

24 DEPOSITION of [REDACTED], a
25 Plaintiff in the above entitled matter, pursuant
to Notice, before Stephen J. Moore, a Registered
Professional Reporter, Certified Realtime Reporter
and Notary Public of the State of New York.

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1 **CONFIDENTIAL INFORMATION**

2 **A P P E A R A N C E S:**

4 **COOPER & KIRK**

5 **Attorneys for Plaintiffs**

6 **1523 New Hampshire Avenue, N.W.**
7 **Washington, D.C. 20036**

9 **BY: DAVIS COOPER, ESQ.**

10 **- and -**

11 **CHARLES J. COOPER, ESQ.**

13 **OFFICE OF THE NEW YORK STATE ATTORNEY**
14 **GENERAL**

15 **Attorneys for Intervenor**

16 **The Capitol**

17 **Albany, New York 4th Floor**

18 **Litigation building**

19 **Albany, New York 12224**

21 **BY: C. HARRIS DAGUE, ESQ.**

22 ***harris.dague@ag.ny.gov***

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1 **CONFIDENTIAL INFORMATION**

2 **EXAMINATION BY** **PAGE**

3 **MR. DAGUE** **5 25**

4

5 **E X H I B I T S**

6

7 **Exhibit 1** [REDACTED] 's curriculum vitae or **16 14**

8 **resume**

9

10 **Exhibit 2** Declaration of John Doe number **69 11**

11 2

12

13 **Exhibit 3** Document relating to gun carry **85 7**

14 permit types

15

16 **Exhibit 4** Final divorce decree dated **94 7**

17 [REDACTED]

18

19 **Exhibit 5** Ex parte temporary order of **94 7**

20 protection

21

22 **Exhibit 6** New York State Firearms License **106 22**

23 Request For Public Records

24 Exemption

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1 **CONFIDENTIAL INFORMATION**

2 **Exhibit 7 City of New York Fire** **113 17**

3 **Department record of**

4 **proceedings**

5

6 **Exhibit 8 Notice to Take Deposition** **124 19**

7

8 **Exhibit 9 E-mail to [REDACTED] by [REDACTED]** **134 8**

9 [REDACTED]

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called as a witness, having been duly sworn by the Notary Public, was examined and testified as follows:

MR. D. COOPER: Before we begin,
can we just put on the record this
testimony is going to be designated as
confidential information under the
protective order in this case.

I think we all need to agree to that.

MR. DAGUE: Yes, we agree. The testimony of the deposition transcript will be maintained pursuant to the protective order, signed and so ordered in this matter.

We would agree to normal federal
stips, including read and sign by the
witness following the testimony.

MR. D. COOPER: Agreed.

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record that we all understand when it's all done, okay?

A Understood, yes.

Q Could you state your full name
for the record?

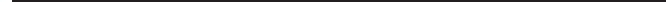
If you already did, I apologize for asking you to do it again.

A .

Q And [REDACTED], where do you currently reside?

A In Putnam County, New York. The
address you need?

Q Yeah, might as well put it on
the record, if you don't mind.

A 

For more information, contact the Office of the Vice President for Research and Economic Development at 319-273-2500 or research@uiowa.edu.

A That's correct, yes.

Q How long have you resided at the
address?

A Since 2012, so what is that, seven years.

Q What is your current age?

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1 **CONFIDENTIAL INFORMATION**

2 **A Yes.**

3 **Q What high school did you go to?**

4 **A [REDACTED], Staten**
5 **Island, New York.**

6 **Q What year did you graduate high**
7 **school?**

8 **A [REDACTED].**

9 **Q Are you currently married?**

10 **A Yes.**

11 **Q What's your spouse's name?**

12 **A [REDACTED],**
13 **last name [REDACTED].**

14 **Q How long have you been married**
15 **to [REDACTED]?**

16 **A 2011. So what is that, eight**
17 **years.**

18 **Q Do you have any children with**
19 **[REDACTED]?**

20 **A Yes.**

21 **Q How many children do you have?**

22 **A Two children.**

23 **Q What are their ages?**

24 **A Five and seven.**

25 **Q They live in the home with you**

CONFIDENTIAL INFORMATION

currently?

A Yes.

Q Does [REDACTED] live in the
home with you as well?

A Yes.

Q Were you previously married?

A Yes.

Q How many times?

A One time previously.

Q What was your ex-wife's name?

A [REDACTED], maiden name [REDACTED] [REDACTED], but then [REDACTED], she took my name at the time.

Q Do you have any children with
from the first marriage?

A Yes.

Q How many?

A Two.

Q What are their ages?

A 28 and 30.

Q Do they live at home with you
currently?

A No.

25 O I am going to show you what I'm

CONFIDENTIAL INFORMATION

So, that's when I transitioned, and you leave the Fire Department, you are on military leave and, I worked for the Coast Guard full-time at that point.

Q For approximately a three year period?

A It was two and a half, yes.

Q What was the highest rank you obtained with the Coast Guard?

A Chief Petty Officer, that's enlisted, and that's number 7 in the grade.

Q Can you explain that, what that means, Chief Petty Officer that's enlisted in number 7 grade?

A Military ranks, you have enlisted folks and then you have officers, they are separate career paths.

Enlisted you start off E1, the numbers go up, E1 through E9, there is a name associated with each rank, but E7 is a Chief Petty Officer, E8 would be the Senior Chief Petty Officer, E9 would be Master Chief Petty Officer.

Q Had you obtained that rank when

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2 employed by the New York Police Department?

3 A Yes.

4 Q Do you recall approximately the
5 years of that employment?

6 A [REDACTED] '83 to [REDACTED] '88.

7 Q Did you take a test to become
8 employed by the police department?

9 A Yes. Same type of civil service
10 exam.

11 Q Did you take the Fire Department
12 test at the same time as the police department
13 test, or did you have a choice as to which, or
14 were you --

15 A I took the Police Department
16 test prior to the Fire Department exam.

17 Q You ultimately left the NYPD for
18 the Fire Department, why was that?

19 A It's a better job in my opinion,
20 it's one that I have always aspired to. It's a
21 family thing, [REDACTED] is a retired Battalion
22 Chief. At the time when I started in the
23 Police Department he was in the Fire
24 Department.

25 I knew a lot about that job and

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2 Do you see that?

3 A Yes, I do.

4 Q When did you first desire to own
5 a hand gun?

6 A Pretty much after moving
7 upstate, into Putnam County.

8 Q Is there a reason why you
9 desired to own a hand gun after moving upstate,
10 into Putnam County?

11 A Yes.

12 Q What is that reason, if you
13 recall?

14 A Well, I live in a very rural,
15 wooded area, remote. Police response times are
16 quite a period of time.

17 If you needed help -- and there
18 is a lot of wildlife in the area, I have a
19 three acre yard surrounded by fields and woods
20 and mountains and State Forest, and there are a
21 lot of animals that come on the property at any
22 given time.

23 Due to its remoteness and
24 response time from local police departments,
25 you know, it would be in my best interest that

1 CONFIDENTIAL INFORMATION

2 I feel to be able to own and possess a hand gun
3 to protect my family and my home, if needed.

4 Q And is there a reason why you
5 have an interest in owning a hand gun as
6 opposed to a long gun, a rifle or a shotgun?

7 A Just easier to lock up in your
8 house and secure, keep away from the kids and
9 stuff of that nature, and then quicker access
10 if needed.

11 Q When you became interested in
12 owning a hand gun as you reference in paragraph
13 6 of Defendant's Exhibit 2, did you take any
14 steps to investigate how to become -- how to
15 own a hand gun in New York State?

16 A Well, yes, they have the online
17 application available through the internet.

18 Q Did you look into that?

19 A Yes.

20 Q Can you just describe to me what
21 you did to investigate that or look into that?

22 A Read it, downloaded it, and
23 reviewed it.

24 One of my particular concerns is
25 around the time that I moved up to Garrison in

1 CONFIDENTIAL INFORMATION

2 Putnam County there was a big article in
3 newspapers going on how other counties,
4 Westchester in particular, you know, through
5 FOIA requests, released information and
6 publicized names of people and their addresses
7 and names and stuff for public viewing, more
8 like even an interactive website if you
9 wanted.

10 And I just felt that in weighing
11 my options from applying to receive a hand gun
12 permit and then having that public disclosure,
13 kind of torn because of the scrutiny that I
14 believe I would have had living in the town
15 that I live in.

16 Q Do you recall where you saw
17 that? Was it a news article that you saw?

18 A So, it was both in the Putnam
19 County News Recorder, which is our local
20 newspaper, and I believe it was all over
21 Channel 12, Westchester news, as well, which is
22 our local cable channel.

23 Q When approximately was that?

24 Year is fine, if you can recall.

25 A Well, I moved up there in

1 CONFIDENTIAL INFORMATION

2 [REDACTED] 2012, so it was shortly
3 thereafter.

4 Q Prior to moving up to Putnam
5 County in approximately [REDACTED] 2012, did you
6 ever prior to that have an interest in
7 obtaining a hand gun?

8 A No.

9 Q So, is it fair to say that the
10 interest began only after you moved to upstate
11 New York?

12 A Correct.

13 MR. DAGUE: Off the record.

14 (Discussion off the record.)

15 MR. DAGUE: Back on the record.

16 Q So, at no time prior to
17 approximately [REDACTED] 2012 had you looked into
18 obtaining a hand gun license?

19 A No. Not living in New York
20 City, where the Police Department has very
21 quick response time and things of that nature.
22 A different kind of setting.

23 Q Now, you testified, and correct
24 me if I'm wrong, that you were torn between
25 your interest in obtaining, owning a hand gun,

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2 and the information you saw in the newspaper
3 and on the news about public disclosure.

4 Is that a fair characterization
5 of what you said?

6 A Yes.

7 Q And could you describe for me
8 why you were torn, what your feelings are with
9 respect to that?

10 A Well, I want to have my Second
11 Amendment rights and be able to own a handgun
12 and have it in my house to protect.

13 But yet the public disclosure,
14 and having names and addresses up on a website
15 and given out for people to look at, is sort of
16 an invasion of my privacy.

17 And the fact that there are
18 people in town that don't look kindly to gun
19 owners.

20 Getting, being new in the
21 neighborhood and meeting people and discussing
22 things with them, you know, it's not a gun
23 loving community, and it would affect some of
24 our circles of friends, the way I feel.

25 The children in play dates -- as

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a matter of fact, recently there is an ordinance, that was in [REDACTED], which is the town governing where I live, passed an ordinance that says if you are a gun owner, you have to keep everything locked if it's not in your possession, and things of that nature.

That spread a lot of conversations around town and in school about gee, if I knew that person was a gun owner, I wouldn't even let my kids go to their house on a play date.

MR. C. COOPER: Were you finished

with your answer?

THE WITNESS: Yeah.

Q I did exactly what I had asked you not to do and I cut you off, so my apologies.

Are you done, do you have anything further to add to that?

A **No.**

Q If you do, just let me know.

You mentioned an ordinance, a town ordinance with respect to play dates?

A No, no, town ordinance has

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2 your attention to the last sentence of that,
3 starting with, "I believe."

4 A Yes.

5 Q It reads, "I believe my family
6 and I would be subject to unwanted attention
7 and censure by those in the community who are
8 hostile to guns and gun owners."

9 Do you see that sentence?

10 A Yes, I see that.

11 Q Is that an accurate sentence?

12 A Yes.

13 Q And when you say --

14 MR. C. COOPER: Just for purposes
15 of clarification, that's not actually a
16 sentence, as opposed to a fragment of a
17 sentence.

18 MR. DAGUE: Fair enough.

19 Q And that is correct. I will
20 represent that is the back half of the
21 sentence, the actual sentence being, "Should my
22 personal identifying information be disclosed."

23 Is that your belief as contained
24 in this declaration?

25 A Yes, that's my personal belief.

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Q Now, when you say you believe your family would be subjected to unwanted attention, what do you mean by that?

A Again, being ostracized in the fact that if it was publicly disclosed and people wanted to go on a website and take a look at stuff and do a little of their own investigating.

My wife is a member of the [REDACTED] Garden Club. If you don't have your lawn looking great, you are kind of ostracized a little bit from that club.

So they are not gun loving people either. They don't even want oil shipments going through to bring the oil way upstate for the people that need it, so.

Q If you did own a hand gun and someone asked you if you owned a hand gun, what would you tell them?

A Well, I would be truthful in the matter, but I would also tell them that it was obviously, if they were worried about their children or something like that, that it is secured and not accessible to young children.

1 CONFIDENTIAL INFORMATION

2 I am a responsible kind of
3 person in that respect.

4 Q In that same sentence where you
5 say you believe your family would be subjected
6 to unwanted attention, you also say they will
7 be subjected potentially to censure.

8 Do you see the use of that word,
9 censure?

10 A Yes.

11 Q Can you tell me what you mean by
12 censure in that context?

13 A Again, it's a personal feeling
14 of people that are not that fond of guns, any
15 gun, pistol, long arm, you name it.

16 They just -- you might be on the
17 outside with their little group, so you might
18 not be a member of that Garden Club or some
19 community event and stuff based upon you being
20 a gun owner.

21 Again, it's the public
22 disclosure there of that information.

23 Q So, is it fair to say the
24 concern is more based upon how you may be
25 treated in the community versus or as opposed

1 CONFIDENTIAL INFORMATION

2 to anyone taking action against you?

3 A I would clarify it more as a way
4 you are treated. I don't think anybody would
5 take any certain action, other than, like I
6 say, maybe ostracizing you from a different
7 event or organization or in a circle of groups
8 of people.

9 Q Okay, fair enough.

10 So, other than -- going back a
11 little bit, you said when you became interested
12 in obtaining a hand gun you took some steps to
13 investigate how to become licensed in New York.
14 Is that fair?

15 A Yes.

16 Q And that included going on the
17 internet and looking at the forms, is that
18 fair?

19 A That's correct.

20 Q Did you go, at any point did you
21 go to the County Clerk's office to fill out
22 forms?

23 A No.

24 Q Did you go to the County Clerk's
25 office to discuss the forms?

1 CONFIDENTIAL INFORMATION

2 Q And is there any reason that you
3 believe that public disclosure of your name
4 would put your life or safety or that of your
5 spouse in danger?

6 A No.

7 Q So you don't believe you qualify
8 for the exception under number 2, is that fair?

9 A That's correct, yes.

10 Q Number 3 reads, "I am a spouse,
11 domestic partner or household member of a
12 person identified in A, B, C or D of question
13 1. "

14 Do you see that?

15 A I do.

16 Q Do you believe that you qualify
17 as a spouse of someone of a person identified
18 in A, B, C or D above?

19 A No, I don't qualify.

20 Q So you don't believe your
21 current wife is not a retired police officer?

22 A No.

23 Q She's not a retired peace
24 officer?

25 A Correct.

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1 CONFIDENTIAL INFORMATION

2 Q And none of those apply to your
3 current wife?

4 A Correct.

5 Q And number 4, "I have reason to
6 believe that I may be subject to unwarranted
7 harassment upon disclosure."

8 Do you see that?

9 A I do.

10 Q And do you have reason to
11 believe that you would be subjected to
12 unwarranted harassment if your name was
13 disclosed pursuant to the public disclosure
14 law?

15 A Not unwarranted harassment, no.

16 Q So when you said in the
17 declaration, Defendant's Exhibit 2, that you
18 have a concern with respect to public attention
19 and censure, do you believe that's different
20 than unwarranted harassment contemplated in
21 paragraph 4?

22 A Yes.

23 Q What do you think is meant by
24 unwarranted harassment in paragraph 4, in your
25 own words?

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A Well, I don't feel like -- first of all, harassment is a crime. There are different degrees of it in the New York State Penal Law, but I don't feel anybody is going to come and follow me around in public and hold up signs and harass me just because my name is publicly disclosed as a gun owner.

Q So again, the major difference between the attention or censure you noted in the declaration is that you believe that would be more with respect to your standing in the community?

A Yes. That of myself and my family, my children, yes.

Q I am going to show you what will be marked as Defendant's Exhibit 8.

(The above described document was marked Defendant's Exhibit 8 for identification as of this date.)

Q I will represent to you that I will be brief with this exhibit, I only have one or two questions, but please feel free to take your time and get comfortable with the document.

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1 **CONFIDENTIAL INFORMATION**

2 any questions.

3 (TIME noted 12:21 p.m.)

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I, the undersigned, a Certified Shorthand Reporter of the State of New York, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction;

That the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case before completion of the proceedings, review of the transcript [x] was [] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this
date subscribed my name.


stephen j. moore
RPR, CRB